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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,674	02/06/2001	Ian Peter Winham	03042.0064	2506
22852	7590	12/27/2004		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005				
EXAMINER VAN DOREN, BETH				
ART UNIT		PAPER NUMBER		
3623				

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/776,674

Applicant(s)

WINHAM ET AL.

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-18 are pending.

#### *Claim Objections*

2. Claim 18 recites the limitation "at least one performance indicator value is are adjusted", which should more appropriately be --at least one performance indicator value is adjusted--. Correction is required.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially" used in claims 3-5 is a relative term which renders the claim indefinite. Since the term "substantially" is a relative term that means considerably or largely, it is unclear as to what specific time period is defined in the limitations "substantially one hour", "substantially one half hour", "substantially two hours". Correction is required.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Crockett (U.S. 5,325,292).

5. As per claim 1, Crockett teaches a method of managing a plurality of agents working for a contact center, comprising:

preparing a plan for each agent for a forthcoming first period, which plan comprises at least one performance indicator value for each of a plurality of second periods of no more than half a day, shorter than the first period (See at least figures 3, 8, and 11, column 2, lines 40-65, column 3, lines 60-67, column 4, lines 1-20, column 8, lines 5-45, and column 19, lines 30-60, wherein a plan for each agent is prepared. The plan is for an upcoming day, the day broken into a plurality of planned increments including lunch, work, meetings, etc.);

deriving, at least at the frequency of the second period a variance from the plan for each of the agents (See at least figures 9 and 10, column 2, lines 40-65, column 4, lines 20-47, column 15, lines 60-67, column 16, lines 1-45, wherein the variance in the plan is determined); and

communicating at least at the frequency of the second period with each agent whose variance exceeds a threshold (See at least figures 9 and 10, column 2, lines 40-65, column 4, lines 20-47, column 15, lines 60-67, column 16, lines 40-67, column 17, lines 1-20, wherein the schedule can be adjusted and communicated to the system).

6. As per claim 2, Crockett discloses wherein the duration of the second period is between one half hour and two hours (See at least figures 3, 8, and 11, column 2, lines 40-65, column 3, lines 60-67, column 4, lines 1-20, column 8, lines 5-45, and column 19, lines 30-60, wherein the duration of the second period is between one half hour and two hours).

7. As per claim 3, Crockett teaches wherein the second period is substantially one hour (See at least figure 3, column 4, lines 1-20, column 8, lines 1-45, and column 19, lines 30-60, wherein the duration of the second period is one hour).
8. As per claim 4, Crockett teaches wherein the second period is substantially one half hour (See at least figure 3, column 4, lines 1-20, column 8, lines 1-45, column 9, lines 30-50, and column 19, lines 30-60, wherein the duration of the second period is one half hour).
9. As per claim 5, Crockett teaches wherein the second period is substantially two hours (See at least figure 3, column 4, lines 1-20, column 8, lines 1-45, column 9, lines 30-50, and column 19, lines 30-60, wherein the duration of the second period is two hours).
10. As per claim 6, Crockett discloses wherein the first period is one working day (See at least figure 3, column 4, lines 1-20, column 8, lines 40-45, column 19, lines 30-60, column 21, lines 14-50, and column 22, lines 5-20, wherein the first period is a working day).
11. As per claim 7, Crockett wherein a variance that does not exceed the threshold is noted for discussion subsequently (See at least figures 9 and 10, column 4, lines 20-47, column 6, lines 25-40, column 8, lines 30-50, column 15, lines 60-67, column 16, lines 40-67, column 17, lines 1-10, wherein the variance is noted and adjustments and data about performance is transmitted through the system).
12. As per claim 11, Crockett discloses a method further comprising a step of generating a report on at least one key performance indicator value from at least one information source (See figures 4 and 9, column 1, lines 15-30, column 15, lines 60-67, column 16, lines 1-15 and 45-67, and column 17, lines 1-20, wherein reports show performance indicators).

13. As per claim 12, Crockett discloses wherein the generation of the report is conducted on a per Agent basis (See figure 4, column 1, lines 15-30, column 8, lines 40-45, column 15, lines 60-67, column 16, lines 1-15 and 45-67, and column 17, lines 1-20, which discusses generating a report on a per agent basis).
14. As per claim 13, Crockett wherein further reports are generated daily and weekly (See figures 4 and 9, column 1, lines 15-30, column 15, lines 60-67, column 16, lines 1-15 and 45-67, and column 17, lines 1-20, wherein reports are generated daily and weekly).
15. As per claim 14, Crockett teaches a method further comprising at least one consequent action point (See at least figures 9 and 10, column 2, lines 40-65, column 4, lines 20-47, column 15, lines 60-67, column 16, lines 1-45).
16. As per claim 15, Crockett wherein the consequent action point comprises scheduling a course for at least one agent (See at least figures 9 and 10, column 2, lines 40-65, column 4, lines 20-47, column 15, lines 60-67, column 16, lines 40-67, column 17, lines 1-20, which discusses scheduling a pattern for an agent).
17. As per claim 16, Crockett discloses wherein the first time period is determined by higher management (See at least figures 3, 8, and 11, column 2, lines 40-65, column 3, lines 60-67, column 4, lines 1-20, column 8, lines 5-45, and column 19, lines 30-60, wherein a plan for each agent is prepared by management).
18. As per claim 17, Crockett teaches a method further comprising maintenance of information regarding the capability for each Agent (See at least figures 4, 5, and 8, column 3, lines 15-50, column 8, lines 30-45, column 19, lines 20-60, wherein information is maintained regarding the agents).

19. As per claim 18, Crockett discloses wherein at least one performance indicator value is adjusted in response to variance from the plan (See at least figures 9 and 10, column 2, lines 40-65, column 4, lines 20-47, column 15, lines 60-67, column 16, lines 1-45, wherein the indicator values are adjusted based on the plan changing).

*Claim Rejections - 35 USC § 103*

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crockett (U.S. 5,325,292).

21. As per claims 8-10, Crockett discloses agents having scheduled meetings during the workday, discussing variances that do not exceed thresholds, and shift level managers versus managers of units and call-center supervisors. Crockett discloses these different levels of employees communicating through the system (See at least figures 2 and 8-10, column 4, lines 1-47, column 6, lines 25-40, column 8, lines 30-50, column 14, lines 1-15, column 15, lines 60-67, column 16, lines 40-67, column 17, lines 1-10). However, Crockett does not expressly disclose a plurality of scheduled meetings between a Team Leader and each Agent, a plurality of scheduled meetings between at least one Team Leader and higher management, and only one scheduled meeting occurs per day.

Crockett discloses scheduled meetings and different levels of management in a force management system for a call center. Different levels of employees having meetings with one

another within a business or corporation is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include meetings between Team Leaders and agents and Team Leaders and higher management to increase the productivity and service level of the contact center by ensuring that all workers are clear on the service level goals and the schedules.

Furthermore, Crockett discusses the importance of service level. It would have been obvious to one of ordinary skill in the art at the time of the invention to only schedule one meeting per day in order to increase the productivity of the agents and managers by leaving enough time to dedicate to work.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McDonough et al. (U.S. 6,115,693) teaches monitoring performance in a customer service center.

Ibarra (U.S. 6,119,097) discloses a system for quantifying human performance.

Machin et al. (U.S. 6,038,544) teaches measuring an agent's performance.

Powers et al. (U.S. 6,604,084) discloses evaluating using a performance evaluation system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*lwd*  
bvd

December 21, 2004

  
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